Chicago

Who right to exhume body

From Sun-Times Wires

FORT WORTH, Texas—A state appeals court Thursday gave a stunning victory to efforts to open the grave of Lee Harvey Oswald, and ruled that the sole right of exhumation belongs to the widow of the accused presidential assassin.

The Texas 2nd Circuit Court of Appeals dissolved a temporary injunction issued a year ago by state District Judge James E. Wright. That order prevented British author Michael Eddowes "and all persons in . . . participation with him" from seeking to exhume Oswald's body for a new autopsy.

The five-page appeals court ruling also said Oswald's older brother, Robert, has no legal right to block efforts to have the grave opened.

LEE HARVEY OSWALD

Essentially, the decision gave approval to efforts by Oswald's widow, Marina Oswald Porter, to open Oswald's grave in Fort Worth's Rose Hill Burial Park.

But attorneys for Robert Oswald are expected to go before a Fort Worth judge on Friday with a motion for a temporary restraining order against Porter and the cemetery to prevent any attempt to open the grave.

The court's decision was a sweeping rebuke to Wright's ruling, and in Rockwall, Texas, Oswald's widow was excited but cautious.

"The war is not over yet and I'll claim the victory when the grave is opened," Porter told United Press International.

HER DALLAS ATTORNEYS, Jerry Pittman and Michael Pezzuill, were elated and immediately began strategy meetings to chart their next moves on behalf of a recent lawsuit filed by Porter.

"Based upon the information we have received regarding the opinion of the Court of Appeals in Fort Worth," Pittman said, "it appears the only interested party is Marina Oswald Porter, our client, and so we are going to immediately take all steps legally necessary to have the trial court grant our request to allow Mrs. Porter the right to exhume the body contained in the grave."

Eddowes had maintained that the body buried in Rose Hill is that of a Soviet impostor who came to the United States to assassinate President John F. Kennedy, the crime with which Oswald was accused in November, 1963, when he was shot by Jack Ruby while in custody.

Porter has said that although she does not agree with Eddowes' theory, she wants the grave opened to end all speculation about the identity of the body.

Although Robert Oswald, of Wichita Falls, Texas, refused to comment on the ruling, his attorney, Kenneth L. Campbell, said that if the appeals court denied their motion for a rehearing, they would appeal to the Texas Supreme Court.

IN WASHINGTON on Thursday, Harold Weisberg, author of six books on the Kennedy assassination, said he has asked a federal judge to order the FBI to perform new tests that might show Oswald could not have acted alone.

Weisberg alleged at a press conference that the FBI withheld:

- Evidence suggesting that a piece of curbstone was chipped by a bullet fired at the same time Oswald fired. It would have been impossible for bullets fired by Oswald to hit both Kennedy and the curb, Weisberg said.
- Evidence that slits on the shirt taken from Kennedy's body were caused by a doctor's scalpel, not by an exiting bullet. The Warren Commission concluded that the bullet went through Kennedy, then hit his fellow passenger, John B. Connally. If the commission conclusion were proved wrong, Weisberg said, more bullets would have been fired than Oswald had time to fire.

Weisberg asked Judge John Pratt to direct the FBI to conduct a new search for the evidence or, if it fails to find it, to reconduct tests on the curbstone and measurements on the shirt.